

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

ELECTRONIC APPLICATION OF KENTUCKY)	
POWER COMPANY FOR (1) A GENERAL)	
ADJUSTMENT OF ITS RATES FOR ELECTRIC)	CASE NO.
SERVICE; (2) AN ORDER APPROVING ITS 2017)	2017-00179
ENVIRONMENTAL COMPLIANCE PLAN; (3) AN)	
ORDER APPROVING ITS TARIFFS AND RIDERS;)	
(4) AN ORDER APPROVING ACCOUNTING)	
PRACTICES TO ESTABLISH REGULATORY)	
ASSETS AND LIABILITIES; AND (5) AN ORDER)	
GRANTING ALL OTHER REQUIRED APPROVALS)	
AND RELIEF)	

ORDER

This matter arises upon the motion of the Kentucky School Boards Association (“KSBA”) filed July 13, 2017, for full intervention. As a basis for its motion to intervene, KSBA states that it serves school boards members and school districts in many areas, including energy management and policy. As a result of a settlement with KSBA in Case No. 2014-00396, Kentucky Power Company (“Kentucky Power”) established a pilot K-12 public school tariff giving the Kentucky Power representative school districts a cumulative \$500,000 annual net benefit versus other pre-existing tariffs. Kentucky Power’s proposed rate adjustment would terminate the pilot K-12 public school tariff, which would have a significant impact on KSBA’s school board districts and their budgets. KSBA states that, based on its representation of all school boards in Kentucky Power’s service territory, and the proposed termination of the K-12 tariff, it has a special interest in this proceeding that would not be adequately represented by the other parties to this

proceeding, and that it will present issues and develop facts that will be helpful to the Commission in fully hearing this matter.

At a July 24, 2017 hearing held to assist the Commission in reaching a decision on pending motions to intervene, the Commission received testimony from KSBA representative Ron Wilhite in support of KSBA's request to intervene. Mr. Wilhite testified that KSBA's member school boards have unique load patterns, and the proposed termination of the K-12 tariff would increase its members' costs substantially. Mr. Wilhite further testified that KSBA's special interest in this matter is in sustaining the rate for schools that was established under the pilot K-12 tariff, and this interest is not represented by any other party to this proceeding.

Based on the motion to intervene and hearing testimony, and being otherwise sufficiently advised, the Commission finds that the only person who has a statutory right to intervene in a Commission case is the Attorney General, pursuant to KRS 367.150(8)(b). Intervention by all others is permissive and is within the sound discretion of the Commission.¹ The Court of Appeals has held that the Commission's discretion to grant or deny a motion for intervention is not unlimited, and has enumerated the limits on the Commission's discretion, with one arising under statute, the other under regulation.² The statutory limitation, KRS 278.040(2), requires that "the person seeking intervention

¹ *Inter-County Rural Electric Cooperative Corporation v. Public Service Commission of Kentucky*, 407 S.W.2d 127, 130 (Ky. 1966).

² *EnviroPower, LLC v. Public Service Commission of Kentucky*, No. 2005-CA-001792-MR, 2007 WL 289328 (Ky. App. Feb. 2, 2007).

must have an interest in the 'rates' or 'service' of a utility, since those are the only two subjects under the jurisdiction of the PSC.”³

The regulatory limitation is set forth in 807 KAR 5:001, Section 4(11)(a), which requires a person to demonstrate either (1) a special interest in the proceeding which is not otherwise adequately represented in the case, or (2) that intervention is likely to present issues or develop facts that will assist the Commission in fully considering the matter without unduly complicating or disrupting the proceedings.

In analyzing the pending motion to intervene, we find that KSBA is likely to present issues and develop facts that will assist the Commission in fully considering the matter without unduly complicating or disrupting the proceedings. The Commission, being otherwise sufficiently advised, finds that the motion should be granted.

IT IS HEREBY ORDERED that:

1. The motion of KSBA to intervene is granted.
2. KSBA shall be entitled to the full rights of a party and shall be served with the Commission's Orders and with filed testimony, exhibits, pleadings, correspondence, and all other documents submitted by parties after the date of this Order.
3. KSBA shall comply with all provisions of the Commission's regulation, 807 KAR 5:001, Section 8, related to the service and electronic filing of documents.
4. KSBA shall adhere to the procedural schedule set forth in the Commission's July 17, 2017 Order and as amended by subsequent Orders.
5. Pursuant to 807 KAR 5:001, Section 8(9), within seven days of entry of this Order, KSBA shall file a written statement, with a copy to parties of record, that:

³ *Id.* at 3.

a. Affirms that it, or its agent, possesses the facilities to receive electronic transmissions;

b. Sets forth the electronic mail address to which all electronic notices and messages related to this proceeding should be served.

By the Commission



ATTEST:



Acting Executive Director

Case No. 2017-00179

*William H May, III
Hurt, Deckard & May
The Equus Building
127 West Main Street
Lexington, KENTUCKY 40507

*Honorable Kurt J Boehm
Attorney at Law
Boehm, Kurtz & Lowry
36 East Seventh Street
Suite 1510
Cincinnati, OHIO 45202

*Laurence J Zielke
Zielke Law Firm PLLC
1250 Meidinger Tower
462 South Fourth Avenue
Louisville, KENTUCKY 40202

*Elizabeth Sekula
American Electric Power Service Corporation
1 Riverside Plaza, 29th Floor
Post Office Box 16631
Columbus, OHIO 43216

*Kent Chandler
Assistant Attorney General
Office of the Attorney General Office of Rate
700 Capitol Avenue
Suite 20
Frankfort, KENTUCKY 40601-8204

*Honorable Michael L Kurtz
Attorney at Law
Boehm, Kurtz & Lowry
36 East Seventh Street
Suite 1510
Cincinnati, OHIO 45202

*Gregory T Dutton
Goldberg Simpson LLC
9301 Dayflower Street
Louisville, KENTUCKY 40059

*Kentucky Power Company
855 Central Avenue, Suite 200
Ashland, KY 41101

*Honorable Matthew R Malone
Attorney at Law
Hurt, Deckard & May
The Equus Building
127 West Main Street
Lexington, KENTUCKY 40507

*Hector Garcia
American Electric Power Service Corporation
1 Riverside Plaza, 29th Floor
Post Office Box 16631
Columbus, OHIO 43216

*Kentucky Power Company
Kentucky Power Company
855 Central Avenue, Suite 200
Ashland, KY 41101

*Honorable Mark R Overstreet
Attorney at Law
Stites & Harbison
421 West Main Street
P. O. Box 634
Frankfort, KENTUCKY 40602-0634

*Jody M Kyler Cohn
Boehm, Kurtz & Lowry
36 East Seventh Street
Suite 1510
Cincinnati, OHIO 45202

*Kenneth J Gish, Jr.
Stites & Harbison
250 West Main Street, Suite 2300
Lexington, KENTUCKY 40507

*Morgain Sprague
Kentucky League of Cities
101 East Vine Street
Suite 800
Lexington, KENTUCKY 40507

*Janice Theriot
Zielke Law Firm PLLC
1250 Meidinger Tower
462 South Fourth Avenue
Louisville, KENTUCKY 40202

*Katie M Glass
Stites & Harbison
421 West Main Street
P. O. Box 634
Frankfort, KENTUCKY 40602-0634

*Rebecca W Goodman
Assistant Attorney General
Office of the Attorney General Office of Rate
700 Capitol Avenue
Suite 20
Frankfort, KENTUCKY 40601-8204

*Justin M. McNeil
Office of the Attorney General Office of Rate
700 Capitol Avenue
Suite 20
Frankfort, KENTUCKY 40601-8204

*Larry Cook
Assistant Attorney General
Office of the Attorney General Office of Rate
700 Capitol Avenue
Suite 20
Frankfort, KENTUCKY 40601-8204

*Ranie Wohnhas
Managing Director
Kentucky Power Company
855 Central Avenue Suite 200
Ashland, KENTUCKY 41101

*M. Todd Osterloh
Sturgill, Turner, Barker & Moloney, PLLC
333 West Vine Street
Suite 1400
Lexington, KENTUCKY 40507